



During the last fortnight, several High Courts have passed orders, allowing the assesseees to claim their transitional credit, by allowing them to file TRAN 1. The number of such Writ Petitions being filed throughout the country indicates the acute nature of this problem. When a mega tax reform like GST happens, the Government should not be so rigid with due dates and procedures and shall have a big heart to extend the benefit of transitional credit, subject to verification.

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GST CASE LAWS

1 M/S Maarq Spaces Pvt Ltd 2019-TIOL-454-AAR-GST

Plot developer cannot claim that he sells the land and hence not liable to GST. AAR says that the developer's role is only development of the land, as he is not the owner of the land, hence GST is applicable.



Nemo dat quod non habet.

2 Indian Potash Ltd 2019-TIOL-472-AAR-GST

Transportation of goods in a vessel from a non-taxable territory to taxable territory amounts to Import of service and such ocean freight is leviable to GST as an inter-state supply. Applicant being an importer is liable to pay IGST under reverse charge mechanism irrespective of whether valuation adopted for import is FOB or CIF.



**Either drown or pay GST,
Ocean "Frights"**

3 M/S Yamuna Trading Corporation 2019-TIOL-2675-HC-Chhattisgarh-GST

CBIC appoints "proper officers" though they are not empowered to do so. Assessee challenges action by such "improper officers" and HC reserves its verdict. Govt. comes out with a corrigendum to replace the word "CBIC hereby appoints" into the "Government hereby appoints" after 2 years of such appointment. High Court impressed and dismissed the petition.



Strange are the ways to govern!

4 Sudhir Kumar Aggarwal 2019-TIOL-2584-HC-DEL-GST

Presence of a lawyer cannot be allowed at the time of examination of a person under the GST Act.



Is Advocate a Devil?



5 Alfa Group 2019-TIOL-2701-HC-KERALA-GST

When the statutory scheme of the GST Act is such as to facilitate a free movement of goods, after self assessment by the assessee concerned, the respondents cannot resort to an arbitrary and statutorily unwarranted detention of goods in the course of transportation. Such action on the part of department officers can erode public confidence in the system of tax administration in our country and, as a consequence, the country's economy itself.



6 M/s V N Mehta And Company 2019-TIOL-2594-HC-MAD-GST

Recovery Proceedings u/s 79 cannot be initiated directly without determination of tax liability.



Don't put the cart before the horse.

7 M/s JAY BEE INDUSTRIES 2019-TIOL-2677-HC-HP-GST

One more on TRAN-1. GST system is still in a “trail & error phase” and assessee should not suffer. After taking note of several judgments of various HCs throughout the length & breadth of the country, Himachal Pradesh HC allows filing of TRAN-1.



GST has brought about unanimity among courts also.

8 Akhil Krishan Maggu 2019-TIOL-2615-HC-P&H-GST

P&H HC has held that Advocates or CAs who had merely filed returns or assisted in business but are not beneficiary or part of the fraud cannot be arrested without any corroborative evidence.



9 Paresh Nathalal Chauhan 2019- TIOL-2664-HC-AHM-GST

Overstay of male departmental officers along with the CISF in assessee's residence deprecated by the HC. Being not happy with the report of GST department, trying to justify it, the Court directs filing of another report by the department.

10 R Gangaiah And Company 2019-TIOL-464-AAR-GST

AP State Financial Corporation, though accepted as a "Govt entity", construction of its office building is not entitled for the concessional rate of 12% GST as AFSC earns interest income.




**Crossing half well, cannot
save you from drowning!**






NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATIONS– 16.11.2019 to 30.11.2019


NO	DATE	GIST
57-61/2019	26.11.2019	Due dates for filing GSTR-1, 3B and 7 for taxpayers in UT of J&K and Ladakh extended.
62/2019	26.11.2019	Transition plan and procedure for taxpayers from State of J&K to UT of J&K and Ladakh.  Transition of the State into UTs, has a GST angle too, apart from its socio, political, economic & demographic angles.

CENTRAL TAX (RATE) NOTIFICATIONS– 16.11.2019 to 30.11.2019”

NO	DATE	GIST
26	22.11.2019	Seeks to explain, “Bus Body building” includes building of body on chassis of any vehicle. 



CGST CIRCULARS – 16.11.2019 to 30.11.2019

NO	DATE	GIST
124	18/11/2019	Filing of GSTR-9/9A is optional for those whose turnover is below 2 Cr. Once they choose not to file, they cannot change their mind and file it after the due date.
125	18/11/2019	Master Circular on refund process superseding all the earlier circulars.  Magna Carta on refund.
126	22/11/2019	Confusion on rate of GST for job work resolved. Job Work to Registered Person will attract 12% (except where lesser rate prescribed). SA's stand Vindicated. Link: http://bit.do/jobwork-mystery-unravelled

CUSTOMS CIRCULARS – 16.11.2019 to 30.11.2019

NO	DATE	GIST
40	29/11/2019	Once the shipment is cleared in customs X-ray screening, the Express Cargo Clearance System should automatically give out of charge. There is no need of sending it to Shed Superintendent or Appraiser for out of charge.





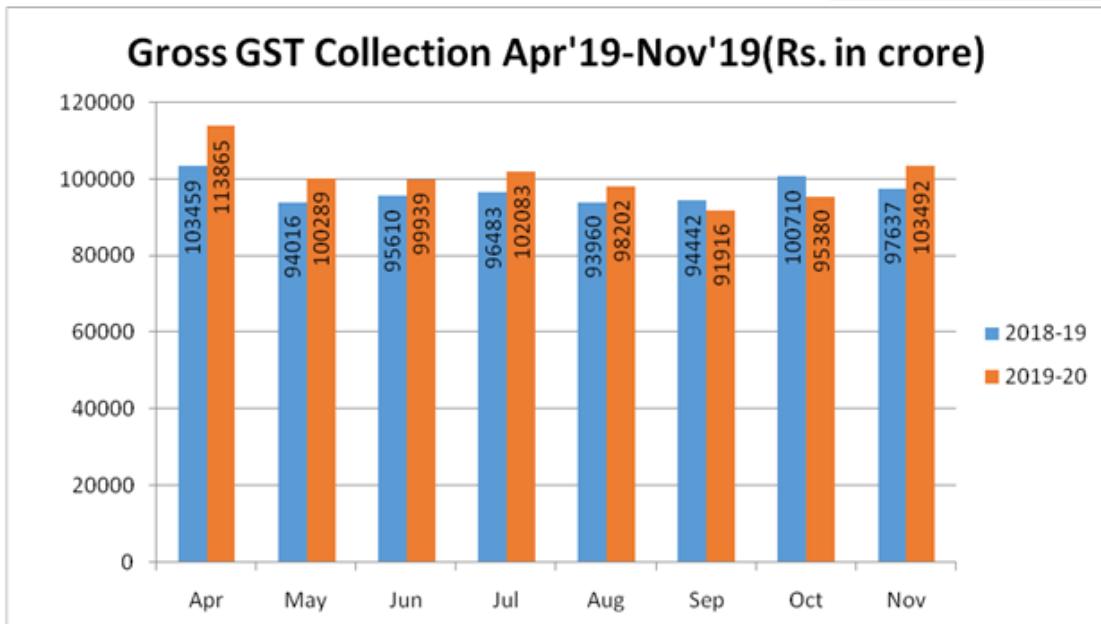
REVENUE AND STATISTICS



November 2019 collection is the third highest monthly collection since introduction of GST.

The gross GST revenue collected in the month of November, 2019 is ₹ **1,03,492 crore** of which CGST is ₹ **19,592 crore**, SGST is ₹ **27,144 crore**, IGST is ₹ **49,028 crore** (including ₹ **20,948 crore** collected on Imports) and Cess is ₹ **7,727 crore** (including ₹ **869 crore** collected on imports).

The total number of GSTR 3B Returns filed for the month of October 19 up to 30th November, 2019 is **77.83 lakh**.



E-Way Bill during the month of November 2019

Number of E-way Bills generated during the month of November 2019

Intra State – 2,41,21,215

Inter State – 1,65,89,240



When the taxpayers in the whole country were crying through twitter for extension of due date in filing of GSTR-3B for Oct'19 due to portal glitches, the GST Network says that they are working fine and it is the mistake of all taxpayers to file the return only on the last day, leading to the system slowing down.



GSTN statement on filing of GSTR-3B (October 2019)

20th Nov. 2019

New Delhi: Certain complaints made yesterday on the social media regarding GSTN system not functioning are incorrect. GSTN assures that the GST Return filing system was working within expected limits. Had it not been so, how more than 11.52 lakh GSTR3B (October) returns could have been filed yesterday on 19th Nov with about 1.82 lakh returns filed in a peak hour. Also, on 18th Nov more than 8.14 lakh returns were filed while today on 20th Nov more than 9.23 lakh GSTR 3B returns were filed by 4.00 pm and filing is going on smooth with 6.30 lakh returns filed between 12 to 4 pm.

Any online system has to have a load threshold and for GST return filing system it is at 1.5 lakh returns filing at a particular moment. If this threshold is reached then the site shows a message asking the taxpayer to wait for his turn in a few minutes.

Referring to complaints, it is stated that it could have been possible that some filers may have momentarily experienced being logged out at the load threshold of 1.5 lakh returns load at a particular point of time or some difficulty due to any local issue at the taxpayer filers' end. But the GST return filing system has been working as expected and coherently and a total of more than 55.79 lakh returns were filed by 4.00 pm today.

The taxpayers are requested that they should not wait till the last three days to file their returns as normally there may be huge rush of return filing on these days. Rather they should file their return on days other than the last three days to avoid rush hour momentary difficulty in filing.



Hey it's not me!

Maharashtra Businessman commits suicide after failing to pay GST. In a suicide note found at the scene, the deceased has stated that his failure to pay GST has forced him to take the extreme step.



**Those with suicidal tendency may contact
GST Helpdesk: 0120 488 8999**



State's confidence on Central support is shaken with delay in disbursing GST Compensation. 5 States viz. Kerala, Rajasthan, West Bengal, Delhi & Punjab, considering legal actions against the Center.



Maharashtra

Maha to Implead?

The MoF is planning to come up with a lottery scheme on daily and monthly basis to encourage the customers to pay GST. The customers have to take a copy of the bill after paying GST for B to C transactions and upload in the directed portal.



Beware if you upload more, Income Tax is watching!

GST Council Meetings are expensive, Goa spent Rs 3.26 crores for hosting one day 37th GST Council meeting. RTI



Why host in GOA, Why not in Mahabalipuram!



When builder chooses to pay 12% GST with ITC, instead of 5%, the benefit of ITC must be passed on to buyers.



Is RERA into NAPA’s shoes?

“If you do not simplify GST, you will be defeating the purpose and intention of why we took this far reaching step of having a GST which enables better compliance, virtues for all stakeholders” – N.K Singh Chairman 15th Finance Commission

Value of Bill Trading Cases booked by different Commissionerates.

Authority	Tax Amount Involved
Central GST Delhi West Commissionerate	108 Cr.
Central GST Delhi North Commissionerate	140 Cr.
DGGI, Gurugram	141 Cr.



Bill trading is chilling!

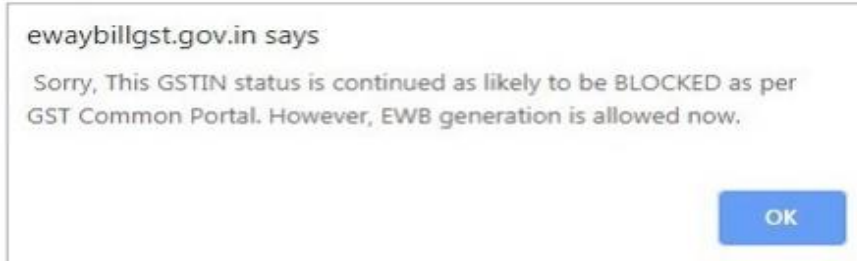


STRAIGHT FROM GST PORTAL



E-- way Bill Blocking

If the GST taxpayer has not filed GSTR 3B for the last two successive months in GST Common portal, then that GSTIN will be blocked for generation of e-way bill either as consignor or consignee.



Link: <https://docs.ewaybillgst.gov.in/Documents/unblock.pdf>

Annual Return (GSTR-9) & the Reconciliation Statement (GSTR-9C)

As per the relevant Changes in Form GSTR-9 & 9C, the changes in the application software and the offline tools are likely to be made available by 10th Dec. 2019.

Link: <https://www.gst.gov.in/newsandupdates/read/332>



Advisory on Supporting documents for Refund

Advisory for taxpayers for uploading multiple invoices/ credit/ debit notes as supporting documents with refund application (RFD-01)

Link: https://tutorial.gst.gov.in/downloads/news/tips_refund.pdf

Online refund processing and single authority disbursement

Link: <https://tutorial.gst.gov.in/downloads/advisory.pdf>

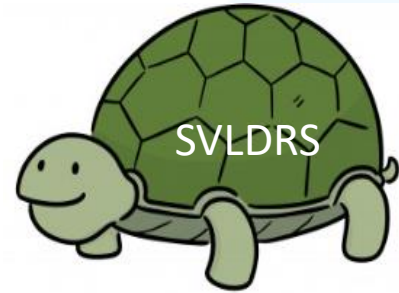




SABKA VISHWAS

The number of applications received from taxpayers, including small taxpayers, and disputes resolved as on 18.11.2019 are as under:

Application Received		Application Accepted	
No.	Amount (In Crores)	No.	Amount (In Crores)
26142	16007.01	2828	162.15



The total number of pending cases of Central Excise and Service Tax is as under:

Year	No. of Cases
2017-18	177604
2018-19	166869
2019-20 (till Oct)	168114

*No. of Declarations filed by SA so far : 322
Total amount payable : Rs.149.55 Crores.*

Source: 25 NOV 2019 5:15PM by PIB Delhi

Many taxpayers, especially in Real-estate sector are short of money not only for their business purposes but also to opt for Sabka Vishwas for their Legacy disputes. Seems Govt is contemplating special bank loans for them. CBIC has written to all Commissioners to identify such assesseees and report.



F.No.267/78/2019-CX-8-Pt.III dt. 28.11.2019





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 Ashish Oberoi 2019 TIOL 3360 [CESTAT Bangalore]

To constitute a “residential complex”, there should be common facility. Builders normally claim the land compulsorily gifted to the municipal authorities for developing civic amenities as “common facilities”. The tribunal has held such gifted land are not part of the project and hence Service tax is not payable.



Claim it as a common facility while marketing. Disown such facilities while claiming exemption from Service Tax.

2 Classic Marble Company Pvt Ltd. 2019-TIOL-3443-CESTAT-AHM

Cenvat Credit on rent a cab service allowed post 01.04.2011, when such cabs are used for official purpose.



Is coming to office is not official?



3 Gujarat Sidhee Cement Ltd 2019 TIOL 3400 [CESTAT Ahemdabad]

Common staff used on sharing basis by two group companies does not amount to provision of service, hence service tax is not applicable



Don't jump in joy, it is not a decision under GST.

4 Giridhari Constructions 2019 TIOL 3420 [CESTAT Hyderabad]

Once discharge certificate is issued under VCES, 2013, reopening of proceedings by the department would make scheme redundant and meaningless.



Note it down, will be helpful in future under Sabka Vishwas.



5 M/s Satyam Auto Components Pvt Ltd 2019-TIOL-3429-CESTAT-MAD.

Retrospective exemption from ST u/s 104 (1) of FA, 2017 for long-term lease of land by Govt. agencies. Refund claim by lessee not time-barred when the lessor (State agency) did not inform the lessee about such exemption.



Satyameva Jayate!

6 M/s Fortis Healthcare India Ltd, Chandigarh 2019 TIOL 3345 [CESTAT Chandigarh]

Agreements between hospitals and doctors/consultants for revenue sharing do not amount to business support service.

7 M/s Keltech Energies Ltd 2019 TIOL 3438 [CESTAT Bangaluru]

Limitation of time for availing CENVAT Credit is a procedural requirement and such lapse, is condonable as the substantial benefit under CCR 2004 cannot be denied due to procedural or technical infractions.





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